

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12246 of 2001

with

SPECIAL CIVIL APPLICATION No 9681 of 2001

with

CIVIL APPLICATION No 2658 of 2002

in

SPECIAL CIVIL APPLICATION No 12246 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

SURENDRANAGAR DISTRICT

PANCHYAT

Versus

MALEK REHMATKHAN JORAWARKHAN

Appearance:

1. Special Civil Application No. 12246 of 2001
MR SUDHIR SHAH for Petitioner No. 1-2
MRS DT SHAH for Respondent No. 1
2. Special Civil Application No. 9681 of 2001
MRS DT SHAH for Petitioner No. 1
MS RV ACHARYA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 02/09/2004

ORAL JUDGEMENT

1. None appears for the petitioners in Special Civil Application No.12246 of 2001 and respondents in Special Civil Application No.9681 of 2001.

2. It may be noted that, right from 20th July, 2004, none has appeared for the respondents. On one occasion, Mrs.D.T.Shah has filed a sick note and, therefore, I have proceeded the matter as ex-parte.

3. The Labour Court while considering the case of the respondent workman, as observed in para 8 that, even before the Labour Court, the conduct of the employer was the same and their right to defend the case was closed. The employer have only orally argued and no evidence was led by the employer, and from the evidence of the employee, the Labour Court has come to the conclusion in para 10 of the judgment that there is a violation of sec.25-F of the Industrial Disputes Act (hereinafter referred to as "the Act"), and as held by the Apex Court in the case of Central Bank of India Vs. S. Satyam and others reported in 1996 SC 2526, the employees who have worked are required to be called for as and when work will be available.

4. In my view, no error is committed by the Labour Court and, therefore, no interference is called for. Hence, both the petitions are dismissed with no order as to costs.

5. However, so far as Special Civil Application No.9681 of 2001 is concerned, it is made clear that the workman will be reinstated with continuity of service and will be paid full salary from date of Award, since sec.17-B of the Act is not complied, till his reinstatement. The respondent Panchayat will reinstate the petitioner within one month from the receipt of the order of this Court.

6. In view of the aforesaid observations and directions, both these petitions are dismissed with no order as to costs. Rule is discharged in each of the petition.

7. As main matter i.e. Special Civil Application

No.12246 of 2001 is disposed of, no order is required to be passed in Civil Application No.2658 of 2002, and accordingly the same is disposed of. Rule is discharged with no order as to costs.

(K.S. Jhaveri, J.)

syed/